IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 32584 of 2005(D)

PETITIONER:

LANSEA FOODS PVT. LTD.,
10/318, KANNAMALI, COCHIN-08, REP. BY ITS
MG. DIRECTOR MR.MADHU GANESH.

BY ADV. SRI.S.ANANTHAKRISHNAN

RESPONDENTS:

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1. THE SALES TAX OFFICER-III,
2ND CIRCLE, MATTANCHERRY.

2. THE SPECIAL TAHSILDAR (RR), KOCHI-01.

3. THE MANAGER,
UNION BANK OF INDIA, KANNAMALI BRANCH, KOCHI-08.

R1 AND R2 BY G.P. SRI. MOHAMMED RAFIQ
R3 BY ADV. SRI.A.S.P.KURUP, SC, UBI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE LETTER DATED 28.1.2005 ISSUED BY BIFR

EXT.P2 TRUE COPY OF THE LETTER DATED 9.12.2004 ISSUED BY THE PETITIONER TO BIFR

EXT.P3 TRUE COPY OF THE LETTER DATED 18.2.2005 ISSUED BY THE PETITIONER TO BIFR

EXT.P4 TRUE COPY OF THE LETTER DASTED 18.2.2005 ISSUED BY THE PETITIONER TO THE SECRETARY, FINANCE, GOVERNMENT OF KERALA.

EXT.P5 TRUE COPY OF ATTACHMENT NOTICE DATED NIL ISSUED BY THE 2ND RESPONDENT.

EXT.P6 TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 5.11.2005

EXT.P7 TRUE COPY OF THE ATTACHMENT NOTICE DATED 18.11.2005 ISSUED BY THE 2ND RESPONDENT.

3RD RESPONDENT'S EXHIBITS:

EXT.R3A TRUE COPY OF THE PROHIBITORY ORDER DATED 18.11.2005 ISSUED BY THE 2ND RESPONDENT TO THE THIRD RESPONDENT.

EXT.R3B TRUE COPY OF LETTER NO. A3-1830/05 DATED 29.11.2005 ISSUED BY SECOND RESPONDENT TO THIRD RESPONDENT.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 32584 OF 2005

Dated this the 27th day of June, 2007

JUDGMENT

Petitioner has produced Ext.P1 communication stating recovery of arrears of sales tax cannot be made against the petitioner on account of pendency of proceedings before BIFR. Ext.P1 is a letter which is two years old. Recovery can be withheld only in terms of Section 22 of the Sick Industrial Companies (Special Provisions) Act. The letter produced by the petitioner does not prove pendency of relevant scheme approved by BIFR. W.P. is closed leaving freedom to the petitioner to produce current BIFR proceedings before respondents 1 and 2 who will continue recovery proceedings unless current proceedings from BIFR valid for the purpose of Section 22 of the Act are produced.

Issue photocopy tomorrow itself.

(C.N.RAMACHANDRAN NAIR)
Judge